IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 34201 of 2003(V)

PETITIONER:

P.A. SIDIQ, GALAXY THEATRE BUILDINGS
PANAYAPPALLY, COCHIN-2, NOW AT 4/395 A
ABDU BROTHERS BUILDING, P.K. ROAD,
KANJIRAMATTOM P.O., COCHIN-682 315.

BY ADV. SRI.JOHN BRITTO
SRI.C.A.RAJEEV

RESPONDENTS:

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1. BANK OF INDIA, COCHIN BRANCH
VI/961, BAZAR ROAD, MATTANCHERRY, COCHIN-2.

2. THE DEBTS RECOVERY TRIBUNAL,
KERALA AT HOUSING BOARD BUILDING,
ERNAKULAM, REPRESENTED BY ITS REGISTRAR.

3. THE RECOVERY OFFICER, DEBTS RECOVERY
TRIBUNAL, KERALA AT HOUSING BOARD
BUILDING, ERNAKULAM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 34201 OF 2003

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE DECREE DT.11.6.01 OF THE DEBTS RECOVERY TRIBUNAL, KERALA.

EXT.P2 : TRUE COPY OF IA 482/03 DT.11.4.03 FILED BEFORE THE DEBTS RECOVERY TRIBUNAL, KERALA.

EXT.P3 : TRUE COPY OF SALE PROCLAMATION DT.23.9.03 PUBLISHED IN MALAYALA MANORAMA DAILY BY THE 3RD RESPONDENT.

EXT.P4 : TRUE COPY OF PETITION DT.29.10.03 SUBMITTED BEFORE THE 3RD RESPONDENT BY THE PETITIONER.

EXT.P5 : TRUE COPY OF POSTAL RECEIPT DT.29.10.03 EVIDENCING ISSUANCE OF EXT.P4 TO THE 3RD RESPONDENT.

/TRUE COPY/

PA TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No. 34201 OF 2003

Dated this the 9th day of August, 2007

JUDGMENT

The prayer in this Writ Petition is that the 3rd respondent-Recovery Officer attached to the DRT be directed not to proceed with the sale of the certificate schedule property pursuant to an ex-parte decree passed against him in OA No.2043 of 1998. Though this court became inclined to grant stay on 31.10.03 for a period of two weeks, thereafter the stay was not extended. The Writ Petition has obviously become infructuous. At any rate the proper remedy available to the petitioner is to seek cancellation of the decree itself and not to impugn the proceedings for sale. The Writ Petition will stand dismissed.

PIUS C. KURIAKOSE, JUDGE

btt